

HOUSE BILL NO. 386

INTRODUCED BY SINRUD

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING QUALIFICATIONS FOR AN INDIVIDUAL APPOINTED AS THE COMMISSIONER OF POLITICAL PRACTICES; ESTABLISHING RESTRICTIONS ON THE COMMISSIONER OF POLITICAL PRACTICES; PROVIDING DEFINITIONS THAT APPLY TO THE COMMISSIONER OF POLITICAL PRACTICES; REQUIRING THAT A GOVERNOR WHO REMOVES A COMMISSIONER OF POLITICAL PRACTICES FROM OFFICE STATE THE REASONS FOR REMOVAL IN WRITING; ~~CHANGING~~ ELIMINATING THE PERIOD DURING WHICH AN INDIVIDUAL WHO SERVED AS COMMISSIONER OF POLITICAL PRACTICES ~~MAY NOT BE~~ WAS RESTRICTED FROM BECOMING A CANDIDATE FOR PUBLIC OFFICE ~~FROM 5 YEARS AFTER SERVING AS COMMISSIONER TO 2 YEARS AFTER SERVING AS COMMISSIONER~~; ESTABLISHING A PERIOD DURING WHICH AN INDIVIDUAL WHO SERVED AS COMMISSIONER OF POLITICAL PRACTICES MAY NOT BE A LOBBYIST AT 2 YEARS AFTER ~~SERVING AS COMMISSIONER~~; IDENTIFYING CONDITIONS REGARDING THE RECUSAL OF THE COMMISSIONER OF POLITICAL PRACTICES; REQUIRING THE APPOINTMENT OF AND SETTING THE QUALIFICATIONS FOR A DEPUTY TO SERVE WHEN THE COMMISSIONER OF POLITICAL PRACTICES IS RECUSED; AND AMENDING SECTIONS 13-27-111, 13-37-101, 13-37-102, 13-37-103, AND 13-37-111, MCA; ~~AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.~~"

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Commissioner of political practices -- qualifications.** The individual appointed to serve as commissioner:

(1) must be a citizen of the United States and a resident of Montana as provided in 13-1-112; AND

(2) on the date of appointment, must be registered to vote in Montana; ~~and~~

~~—— (3) within the 2-year period prior to appointment, may not have been:~~

~~—— (a) a candidate for or may not have held a public office, as defined in 2-16-602; or~~

~~—— (b) a lobbyist, as defined in 5-7-102.~~

NEW SECTION. **Section 2. Commissioner of political practices -- restrictions.** ~~(1)~~ During the

commissioner's term of office, the commissioner may not knowingly, as defined in 45-2-101:

~~(a)(1)~~ hold another position of public trust or engage in any other occupation or business if the position of public trust or the other occupation or business interferes with or is inconsistent with the commissioner executing the duties of the commissioner's office;

~~(b)(2)~~ participate in any political activity or in a political campaign;

~~(c)(3)~~ make a contribution to a candidate or political committee or for or against a ballot issue or engage in any activity that is primarily intended to support or oppose a candidate, political committee, or ballot issue;

~~(d)(4)~~ attend an event that is held for the purpose of raising funds for or against a candidate, political committee, or ballot issue;

~~(e)(5)~~ participate in a matter pertaining to the commissioner's office that:

~~(i)(A)~~ is a conflict of interest or results in the appearance of a conflict of interest between public duty and private interest pursuant to Title 2, chapter 2; or

~~(ii)(B)~~ involves a relative of the commissioner.

~~—— (2) For 2 years after an individual has served as the commissioner and has left the office of commissioner, the individual may not be a candidate or a lobbyist.~~

Section 3. Section 13-27-111, MCA, is amended to read:

"13-27-111. Definitions. As used in 13-27-112, 13-27-113, and this section, unless otherwise indicated by the context, the following definitions apply:

(1) "Commissioner" means the commissioner of political practices provided for in ~~13-37-101~~ 13-37-102.

(2) "Paid signature gatherer" means a signature gatherer who is compensated in money for the collection of signatures.

(3) "Person" has the meaning provided in 13-1-101, but does not include a candidate and includes a political committee.

(4) "Signature gatherer" means an individual who collects signatures on a petition for the purpose of an initiative, a referendum, or the calling of a constitutional convention."

Section 4. Section 13-37-101, MCA, is amended to read:

"13-37-101. Commissioner of political practices Definitions. ~~In~~ As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

1 ~~(1) "commissioner" "Commissioner" means the commissioner of political practices created by 13-37-102;~~
2 ~~unless the context clearly indicates otherwise.~~

3 ~~—— (2) "Lobbying" has the meaning provided in 5-7-102.~~

4 ~~—— (3) "Political activity" means any activity or effort in support of or in opposition to any political committee;~~
5 ~~the nomination or election of any person to public office, or the passage of a ballot issue.~~

6 ~~(4)(2) "Public office" has the meaning provided in 13-1-101.~~

7 ~~(5)(3) "Recusal" means disqualification from a matter by reason of prejudice or conflict of interest.~~

8 ~~(6)(4) "Relative" means a family member who is within the second degree of consanguinity or affinity~~
9 ~~to the commissioner."~~

10
11 **Section 5.** Section 13-37-102, MCA, is amended to read:

12 **"13-37-102. Creation of office -- removal.** (1) There is a commissioner of political practices who is
13 appointed by the governor, subject to confirmation by a majority of the senate. A four-member selection
14 committee ~~comprised~~ composed of the speaker of the house, the president of the senate, and the minority floor
15 leaders of both houses of the legislature shall submit to the governor a list of not less than two or more than five
16 names of individuals for ~~his~~ the governor's consideration. A majority of the members of the selection committee
17 shall agree upon each nomination.

18 (2) The individual selected to serve as commissioner ~~of political practices~~ may be removed by the
19 governor prior to the expiration of the term only for incompetence, malfeasance, or neglect of duty. The
20 governor's decision to remove the commissioner must be stated in writing, and the sufficiency of such the
21 governor's stated causes ~~shall be~~ for removing the commissioner is subject to judicial review."

22
23 **Section 6.** Section 13-37-103, MCA, is amended to read:

24 **"13-37-103. Term of office -- ~~limitations on holding other office or lobbying.~~** (1) The Subject to the
25 provisions of 13-37-104, the individual selected to serve as the commissioner of political practices is appointed
26 for a 6-year term, but he is thereafter ineligible and may not be reappointed to serve as the commissioner of
27 political practices.

28 ~~—— (2) The individual selected to serve as commissioner of political practices is precluded from being a~~
29 ~~candidate for public office as defined in 13-1-101 or from lobbying for a period of 5 2 years from the time that~~
30 ~~he the individual leaves office as commissioner."~~

1
2 **Section 7.** Section 13-37-111, MCA, is amended to read:

3 **"13-37-111. Investigative powers and duties -- recusal.** (1) The commissioner is responsible for
4 investigating all of the alleged violations of the election laws contained in chapter 35 of this title or this chapter
5 and in conjunction with the county attorneys is responsible for enforcing these election laws.

6 (2) The commissioner may:

7 (a) investigate all statements filed pursuant to the provisions of chapter 35 of this title or this chapter
8 and shall investigate alleged failures to file any statement or the alleged falsification of any statement filed
9 pursuant to the provisions of chapter 35 of this title or this chapter. Upon the submission of a written complaint
10 by any individual, the commissioner shall investigate any other alleged violation of the provisions of chapter 35
11 of this title, this chapter, or any rule adopted pursuant to chapter 35 of this title or this chapter.

12 ~~(3)(b) The commissioner may~~ inspect any records, accounts, or books that must be kept pursuant to
13 the provisions of chapter 35 of this title or this chapter ~~which that~~ are held by any political committee or
14 candidate, as long as the inspection is made during reasonable office hours; and

15 ~~(4)(c) The commissioner may~~ administer oaths and affirmations, subpoena witnesses, compel their
16 attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, bank
17 account statements of a political committee or candidate, or other records ~~which that~~ are relevant or material
18 for the purpose of conducting any investigation pursuant to the provisions of chapter 35 of this title or this
19 chapter.

20 (3) If the commissioner determines that considering a matter would give rise to the appearance of
21 impropriety or a conflict of interest, the commissioner is recused from participating in the matter.

22 (4) (a) If the commissioner is recused pursuant to this section, the commissioner shall appoint a deputy,
23 subject to subsection (4)(b).

24 (b) The deputy:

25 (i) may not be an employee of the office of the commissioner;

26 (ii) must have the same qualifications as specified for the commissioner in [section 1];

27 (iii) with respect to only the specific matter from which the commissioner is recused, has the same
28 authority, duties, and responsibilities as the commissioner would have absent the recusal; and

29 (iv) may not exercise any powers of the office that are not specifically related to the matter for which the
30 deputy is appointed.

(5) The appointment of the deputy is effectuated by a contract between the commissioner and the deputy. The contract must specify the deputy's term of appointment, which must be temporary, the matter assigned to the deputy, the date on which the matter assigned must be concluded by the deputy, and any other items relevant to the deputy's appointment, powers, or duties."

NEW SECTION. Section 8. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 13, chapter 37, part 1, and the provisions of Title 13, chapter 37, part 1, apply to [sections 1 and 2].

~~NEW SECTION. Section 9. Effective date. [This act] is effective on passage and approval.~~

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